Changes to legislation: *Council Regulation (EU) No 25/2011 is up to date with all changes known to be in force on or before 18 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Council Regulation (EU) No 25/2011 of 14 January 2011 amending Regulation (EC) No 560/2005 imposing certain specific restrictive measures directed against certain persons and entities in view of the situation in Côte d'Ivoire

COUNCIL REGULATION (EU) No 25/2011

of 14 January 2011

amending Regulation (EC) No 560/2005 imposing certain specific restrictive measures directed against certain persons and entities in view of the situation in Côte d'Ivoire

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215(2) thereof,

Having regard to Decision 2010/656/CFSP of 29 October 2010 renewing the restrictive measures against Côte d'Ivoire[(1)], as amended by Decision 2011/18/CFSP of 14 January 2011[(2)],

Having regard to the joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission,

Whereas:

(1) Decision 2010/656/CFSP, as amended, provides for the adoption of restrictive measures against certain persons who, while not designated by the United Nations (UN) Security Council or the Sanctions Committee, are obstructing the process of peace and national reconciliation in Côte d'Ivoire and in particular those who are jeopardising the proper outcome of the electoral process, as well as against legal persons, entities or bodies owned or controlled by such persons and persons, entities or bodies acting on their behalf or at their direction.

(2) These measures fall within the scope of the Treaty on the Functioning of the European Union and, therefore, notably with a view to ensuring their uniform application by economic operators in all Member States, regulatory action at the level of the Union is necessary in order to implement them.

(3) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and notably the right to an effective remedy and to a fair trial and the right to the protection of personal data. This Regulation should be applied in accordance with those rights and principles. This Regulation also fully respects the obligations of Member States under the Charter of the United Nations and the legally binding nature of the UN Security Council Resolutions.

(4) The power to amend the lists in Annexes I and IA to Regulation (EC) No 560/2005 should be exercised by the Council, in view of the specific threat to international peace and security posed by the situation in Côte d'Ivoire, and to ensure consistency with the process for amending and reviewing Annexes I and II to Decision 2010/656/CFSP.

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(5) The procedure for amending the lists in Annexes I and IA to Regulation (EC) No 560/2005 should include providing designated natural or legal persons, entities or bodies with the grounds for listing, so as to give them an opportunity to submit observations. Where observations are submitted, or substantial new evidence is presented, the Council should review its decision in light of those observations and inform the person, entity or body concerned accordingly.

(6) For the implementation of this Regulation, and in order to create maximum legal certainty within the Union, the names and other relevant data concerning natural and legal persons, entities and bodies whose funds and economic resources are to be frozen in accordance with this Regulation, should be made public. Any processing of personal data should respect Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data[(3)] and Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data[(4)].

(7) In order to ensure that the measures provided for in this Regulation are effective, this Regulation should enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 560/2005 is amended as follows:

(1) Article 2 is replaced by the following:

Article 2

1 All funds and economic resources belonging to, owned, held or controlled by the natural or legal persons, entities and bodies listed in Annex I or in Annex IA shall be frozen.

2 No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in Annex I or in Annex IA.

3 The participation, knowing and intentional, in activities the object or effect of which is, directly or indirectly, to circumvent the measures referred to in paragraphs 1 and 2 shall be prohibited.

4 Annex I shall consist of the natural or legal persons, entities and bodies referred to in Article 5(1)(a) of Decision 2010/656/CFSP as amended.

5 Annex IA shall consist of the natural or legal persons, entities and bodies referred to in Article 5(1)(b) of Decision 2010/656/CFSP as amended.;

(2) the following Article is inserted:

Article 2a

1 Annexes I and IA shall include the grounds for listing of listed persons, entities and bodies, as provided by the UN Security Council or by the Sanctions Committee for Annex I.

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2 Annexes I and IA shall also include, where available, information necessary to identify the natural or legal persons, entities and bodies concerned, as provided by the UN Security Council or by the Sanctions Committee for Annex I. With regard to natural persons, such information may include names, including aliases, date and place of birth, nationality, passport and ID card numbers, gender, address, if known, and function or profession. With regard to legal persons, entities and bodies, such information may include names, place and date of registration, registration number and place of business. Annex I shall also include the date of designation by the UN Security Council or by the Sanctions Committee.;

(3) Articles 3 and 4 are replaced by the following:

Article 3

1 By way of derogation from Article 2, the competent authorities of the Member States, as identified on the websites listed in Annex II, may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the funds or economic resources are:

a necessary for basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;

b intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;

c intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources.

If it concerns a person, entity or body listed in Annex I, Member States shall notify their intention to authorise access to such funds and economic resources to the Sanctions Committee. They shall not authorise such access if they have received a negative decision by the Sanctions Committee within two working days of such notification.

2 By way of derogation from Article 2 and provided it concerns a person, entity or body listed in Annex I, the competent authorities of the Member States, as identified on the websites listed in Annex II, may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the funds or economic resources are necessary for extraordinary expenses, provided that Member States have notified that determination to the Sanctions Committee and that the determination has been approved by that Committee, under the conditions envisaged by paragraph 14(e) of UN Security Council Resolution 1572 (2004).

3 By way of derogation from Article 2 and provided it concerns a person, entity or body listed in Annex IA, the competent authorities of the Member States, as identified on the websites listed in Annex II, may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the funds or economic resources are necessary for extraordinary expenses, provided that the Member State has notified the grounds on which it considers that a specific authorisation should be granted to all other Member States and to the Commission at least two weeks prior to authorisation.

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Article 4

By way of derogation from Article 2, the competent authorities of the Member States, as identified on the websites listed in Annex II, may authorise the release of certain frozen funds or economic resources, if the following conditions are met:

(a) the funds or economic resources in question are the subject of a judicial, administrative or arbitral lien established prior to the date on which the person, entity or body referred to in Article 2 became subject to this Regulation, or of a judicial, administrative or arbitral judgment rendered prior to that date;

(b) the funds or economic resources in question will be used exclusively to satisfy claims secured by such a lien or recognised as valid in such a judgment, within the limits set by applicable laws and regulations governing the rights of persons having such claims;

(c) the lien or judgment is not for the benefit of a person, entity or body listed in Annex I or in Annex IA;

(d) recognising the lien or judgment is not contrary to public policy in the Member State concerned; and

(e) if it concerns a person, entity or body listed in Annex I, Member States have notified the lien or judgment to the Sanctions Committee.;

(4) Article 7 is replaced by the following:

Article 7

Article 2(2) shall not prevent financial or credit institutions in the Union from crediting frozen accounts where they receive funds transferred to the account of a listed natural or legal person, entity or body, provided that any additions to such accounts will also be frozen. The financial or credit institution shall inform the relevant competent authority about any such transaction without delay.;

(5) the following Article is inserted:

Article 9a

The prohibition set out in Article 2(2) shall not give rise to any liability of any kind on the part of the natural and legal persons, entities and bodies which made funds or economic resources available if they did not know, and had no reasonable cause to suspect, that their actions would infringe the prohibition in question.;

(6) Article 11 is replaced by the following:

Article 11

The Commission shall be empowered to amend Annex II on the basis of information supplied by Member States.;

(7) the following Article is inserted:

Article 11a

1 Where the UN Security Council or the Sanctions Committee lists a natural or legal person, entity or body, the Council shall include such natural or legal person, entity or body in Annex I.

2 Where the Council decides to subject a natural or legal person, entity or body to the measures referred to in Article 2(1), it shall amend Annex IA accordingly.

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3 The Council shall communicate its decision, including the grounds for listing, to the natural or legal person, entity or body referred to in paragraphs 1 and 2, either directly, if the address is known, or through the publication of a notice, providing such natural or legal person, entity or body with an opportunity to present observations.

4 Where observations are submitted, or where substantial new evidence is presented, the Council shall review its decision and inform the natural or legal person, entity or body accordingly.

5 Where the United Nations decides to delist a natural or legal person, entity or body, or to amend the identifying data of a listed natural or legal person, entity or body, the Council shall amend Annex I accordingly.

6 The list in Annex IA shall be reviewed in regular intervals and at least every 12 months.;

(8) the following Article is inserted:

Article 12a

Where there is, in this Regulation, a requirement to notify, inform or otherwise communicate with the Commission, the address and other contact details to be used for such communication shall be those indicated in Annex II.;

(9) Article 13 is replaced by the following:

Article 13

This Regulation shall apply:

(a) within the territory of the Union, including its airspace;

(b) on board any aircraft or any vessel under the jurisdiction of a Member State;

(c) to any person inside or outside the territory of the Union who is a national of a Member State;

(d) to any legal person, entity or body which is incorporated or constituted under the law of a Member State;

(e) to any legal person, entity or body in respect of any business done in whole or in part within the Union.;

(10) the text set out in Annex I is inserted into Regulation (EC) No 560/2005 as Annex IA;

(11) Annex II to Regulation (EC) No 560/2005 is replaced by the text set out in Annex II to this Regulation.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.